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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,722	03/24/2004	Jinichi Hiyama	44471/298741	4425

23370 7590 08/24/2005

JOHN S. PRATT, ESQ  
KILPATRICK STOCKTON, LLP  
1100 PEACHTREE STREET  
ATLANTA, GA 30309

EXAMINER
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DUONG, THO V

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/807,722

Applicant(s)

HIYAMA ET AL.

Examiner

Tho v. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,4,5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4,5 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Receipt of applicant's amendment filed 6/6/2005 is acknowledged. Claims 2,4-5 and 7-10 are pending. Claims 7-9 remain withdrawn from further consideration.

#### ***Response to Arguments***

Applicant's arguments filed 6/6/2005 have been fully considered but they are not persuasive. Applicant's argument that both Bertva and Calleson fail to disclose the length of the main body portion (41) does not exceed the length of the first separated body, has been very carefully considered but is not deemed to be persuasive. The examiner agrees only that the length of the second separated body of both the references exceed the length of the first separated body. However, the main body (48) in Bertva and (190) in Calleson does not exceed the length of the first separated body. The length of the main body is not the same as the length of the second body in both references. In fact, the length of the main body is the length of the second body but excludes the abutment portion (140), and the projections portions. Therefore, the rejection against claims 2,4,5 and 10 still remain proper.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertva et al. (US 5,450,896). Bertva discloses (figures 1-4) a header tank for a heat exchanger in which a

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plurality of flat tubes (14) are communicated and connected to at least a pair of header tanks so as to form a multiple stages, comprising a pipe (12) formed by combining a first separated body (26) and a second separated body (28); a closing member (22) for closing opening portions in both end of the pipe; a tube holding wall portion (32) provided in the first separated body and holds the flat tube; a pair of straight portions (38) protruded from the tube holding wall portion in an approximately orthogonal direction and formed along both ends in a width direction of the tube; wherein the holding wall portion (32) and the pair of straight portions are formed in a C-shaped cross sectional shape; the second separated body further comprises a main body portion (48) closing an opening portion of the first separated body, abutment portions (70) provided in both ends of the main body portions and abutted on the leading end surface of the straight portion in the first separated body; joint projections (54) protruded from the main body portion and bonded to the inner peripheral surface of the leading end portion in the straight portion; wherein the main body portion is formed by connecting the abutment portions to each other in an approximately linear shape so as to be approximately orthogonal to the longitudinal direction of the tube; and the length of the main body portion (48) does not exceed the length of the first body.

Claims 2,4,5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Calleson (US 5,152,339). Calleson discloses (figures 4,7-8) the claimed invention wherein the first separated body (152) includes a tube holding wall portion (154) having insertion holes (170) for holding flat tubes (112) and a pair of straight portion (152) protruded from the tube holding wall portion in an approximately parallel direction to an insertion direction of the flat tubes; the flat tube holding wall portion and the straight portions are formed in a C-shaped cross sectional

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shape; wherein the second separated body includes a main body (190) closing an opening portion of the first separated body, abutment portions (140,144) provided in both end of the main body portion and abutted on leading end surfaces (164) of the straight portions, and joint projections (projections next to abutment portion 144) protruded from the main body portion (190) and bonded to inner peripheral surfaces of leading end portions of the straight portion; and the length of the main body portion in a direction orthogonal to the insertion direction of the flat tube does not exceed the length of the first separated body; the leading end portion of the straight portion are accommodated in a space defined by the joint projection and the abutment portions; the main body portion (190) is in an approximately linear shape so as to be approximately orthogonal to the longitudinal direction of the tube; the inner peripheral surface of the main body portion is formed in a circular curved surface connecting the pair of joint projections to each other.

Regarding claim 2, Calleson further discloses an embodiment in figure 4a that the tube holding wall portion (154) is formed in a flat shape, which is orthogonal to a longitudinal direction of the tube (112).

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tho v. Duong whose telephone number is 571-272-4793. The examiner can normally be reached on M-F (first Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennet can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tho v Duong  
Primary Examiner  
Art Unit 3743

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August 19, 2005